



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TJR

Docket No: 6802-99

1 May 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 19 April 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Marine Corps on 5 January 1954 at the age of 17. Approximately nine months later, on 14 September 1954, you were convicted by summary court-martial (SCM) of failure to obey a lawful order. You were sentenced to confinement for 20 days and reduction to paygrade E-2. Shortly thereafter, on 6 October 1954, you received nonjudicial punishment (NJP) for insubordination and were awarded extra duty for a week.

Your record reflects that on 10 February 1955 you received NJP for using profane language and were awarded restriction for two weeks. On 10 May and again on 10 June 1955 you were convicted by SCM of disrespect and dereliction in the performance of your duties.

On 19 June 1956 you were convicted by special court-martial (SPCM) of failure to obey a lawful order, being incapacitated for duty due to intoxication, and absence from your appointed place of duty. You were sentenced to confinement at hard labor for three months, forfeitures totalling \$195, and a bad conduct

discharge (BCD). The BCD was suspended for six months. On 9 July 1956, while in confinement, you received NJP for failure to obey a lawful order. On 3 October you received your fourth NJP for an unspecified period of unauthorized absence (UA) and were awarded two weeks restriction. Shortly thereafter, on 28 November 1956, you were convicted by SCM of disrespect, possession of an authorized liberty card, and failure to check out on liberty. You were sentenced to confinement at hard labor for a month and \$60 forfeiture of pay.

Your record further reflects that on 1 January 1957, you received NJP for absence from your appointed place of duty and were awarded restriction for two weeks.

On 1 March 1957 you submitted a written request for reenlistment. However, this request was denied due to your low conduct marks and overall record. On 23 March 1957 you were notified of pending administrative separation action by reason of unfitness due to a frequent involvement of a discreditable nature with military authorities. At this time you waived your rights to consult with legal counsel or to submit a statement in rebuttal to the separation. Subsequently, your commanding officer recommended that you be issued an undesirable discharge by reason of unfitness. The discharge authority approved the foregoing recommendation and directed your commanding officer to issue you an undesirable discharge. On 16 April 1957 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity, good post service conduct, and your contention that you would like your discharge upgraded now that you are ill and unable to work, and so that you may attend a community college. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your frequent misconduct which resulted in an five NJPs and five court-martial convictions. Additionally, the Board noted that your continued misconduct even after the BCD was suspended. Given all the circumstances of your case, the Board concluded your discharge was proper as issued and no change is warranted. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a

presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director